presidential documents

Title 3—The President

PROCLAMATION 4521

Fire Prevention Week, 1977

By the President of the United States of America

A Proclamation

The United States of America and its people continue to be victims of destructive fires at a rate unmatched in the industrialized world. For this reason, it is essential that we all be aware of the potential for tragedy from fire and that we do all within our power to eradicate the threat of unwanted fire.

The most recent figures available indicate that about 7,500 Americans die, over 300,000 are injured, and more than $4 billion in property is lost annually because of fire. These fires occur in all areas of America, in homes, factories, offices, schools, nightclubs, prisons, and homes for elderly, and affect all Americans. Professional fire fighters bear a disproportionate burden of the human costs of fire; theirs is still one of the most hazardous professions in America. In addition, thousands of individuals face the dangers of fire without pay, as volunteer fire fighters.

Through the efforts of the fire services, concerned citizens, the private sector, and government, Americans are becoming increasingly aware of the problem, and some of its solutions.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning October 9, 1977, as Fire Prevention Week.

I call upon all Americans to learn basic fire prevention and personal fire safety practices and to apply these safeguards to reduce the toll of death, burn injuries and property loss due to fire.

I urge all Federal, State and local agencies concerned with such national problems as energy conservation, environmental protection, and economic well-being to consider fully how their programs can help assure that all Americans live and work in an environment that is as safe as possible from the danger of fire.

I urge the continued cooperation of Government and the private sector in encouraging the use of smoke detection and fire suppression systems.

I call upon the members of the Joint Council of National Fire Service Organizations, the National Fire Protection Association, all other organizations concerned with fire safety, and the National Fire Prevention and Control Administration to provide the leadership, planning, and innovation necessary for an effective national fire prevention and control effort.

Finally, let us all recognize the valiant and determined efforts of the fire services, code enforcement officers, Federal officials, and State and local government officials in fire prevention and control.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77-27609 Filed 9-19-77;12:49 pm]

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Labor Department

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Two positions of Special Assistant to the Deputy Assistant Secretary for Employment Standards are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a)(63) is added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(63) Two Special Assistants to the Deputy Assistant Secretary for Employment Standards.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-27743 Filed 9-20-77;9:15 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Exotic Organisms

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates the authority of the Secretary of Agriculture contained in Executive Order 11987 to determine that the introduction of an exotic species of plants and animals or the exportation of a native species of plants or animals will not have an adverse effect on natural ecosystems, and the authority to consult with the Department of the Interior in that Department's development and implementation of procedures to implement Executive Order 11987. In addition minor editorial changes are made.

EFFECTIVE DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, 202–447–6035.

SUPPLEMENTARY INFORMATION: Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Congressional and Public Affairs

Section 2.17 is amended by revising the introductory language in paragraph (b); by renumbering paragraph (b)(32) as (b)(31); and by adding a new paragraph (b)(32) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing Services.

* * * * *

(b) *Related to animal and plant health inspection.* Exercise the functions of the Secretary of Agriculture under the following authorities:

* * * * *

(32) Executive Order 11987.

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing Services

Section 2.51 is amended by deleting the word "Acts" in the introductory portion of paragraph (a) and substituting in lieu thereof the word "authorities", and by adding a new paragraph (a)(33) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) *Delegations.* * * *

* * * * *

(33) Executive Order 11987.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For Subpart C:
Dated: September 16, 1977.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart F:
Dated: September 16, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77-27447 Filed 9-20-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange Reg. 76, Grapefruit Reg. 78, Tangerine Reg. 49, Tangelo Reg. 49]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and size requirements for the period September 26, 1977, through November 13, 1977, applicable to the handling of Florida oranges, grapefruit, tangerines and tangelos. The regulations are necessary to ensure the shipment of fruit of acceptable quality and sizes in the interest of both growers and consumers. The action tends to promote orderly marketing conditions by preventing the adverse effect on the market which would be caused by shipment of lower-quality and smaller-size fruit. More than ample supplies of the more acceptable grades and sizes are available to serve consumers' needs.

EFFECTIVE DATE: September 26, 1977, through November 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: The minimum grade and size requirements are summarized in the following table:

TABLE

Variety	Domestic regulations		Export regulations	
	Minimum grade	Minimum diameter in inches (count size in ⅝ bushel carton)	Minimum grade	Minimum diameter in inches (count size in ⅝ bushel carton)
Early-Midseason oranges	U.S. No. 1	2⁹⁄₁₆ (size 125)	U.S. No. 1	2⁵⁄₁₆ (size 163).
Navel oranges	U.S. No. 1 golden	do	U.S. No. 1 golden	Do.
Temple oranges	U.S. No. 1	2⁹⁄₁₆ (size 125)	U.S. No. 1	Do.
Murcott honey oranges	Florida No. 1	2¹¹⁄₁₆ (size 120)	Florida No. 1	2⁵⁄₁₆ (size 150).
Valencia oranges	U.S. No. 1	2⁵⁄₁₆ (size 125)	U.S. No. 1	2⁵⁄₁₆ (size 163).
Seeded grapefruit	U.S. No. 1	3¹⁵⁄₁₆ (size 40)	U.S. No. 1	3⁵⁄₁₆ (size 48).
Seedless grapefruit	Improved No. 2	3⁵⁄₁₆ (size 48)	Improved No. 2	3⁵⁄₁₆ (size 64).
Tangerines	U.S. No. 1	2¹⁄₁₆ (size 210)	U.S. No. 1	2³⁄₁₆ (size 246).
Tangelos	U.S. No. 1	2⁹⁄₁₆ (size 125)	U.S. No. 1	2⁵⁄₁₆ (size 163).

Findings. (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the recommendations of the committees established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of oranges, including Navel, Temple and Murcott Honey oranges, Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grapefruit, tangerines, and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The specified minimum grade and size requirements reflect the Department's appraisal of the need for regulation of the designated varieties of oranges, grapefruit, tangerines, and tangelos during the period September 26 through November 13, 1977, based on the available supply and current and prospective market demand conditions. Available data indicate that during the 1977–78 season fresh market outlets will take about 18,000 carlots of round oranges, 3,000 carlots of Temple oranges, 50 carlots of seeded grapefruit, 34,000 carlots of seedless grapefruit, 3,500 carlots of tangelos, 4,000 carlots of tangerines, and 1,850 carlots of murcotts.

The grade and size requirements for export shipments of oranges, grapefruit, tangerines and tangelos are necessary to assure the exportation of good-quality fruit and thereby aid the expansion of export markets.

It is concluded that the grade and size requirements hereinafter set forth are necessary to provide acceptable quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these regulations until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which these regulations are based and the time when these regulations must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions effective as hereinafter set forth. Shipments of oranges, grapefruit, tangerines, and tangelos, grown in the production area, are presently subject to regulation by grades and sizes, under the marketing agreement and order; the recommendation and supporting information for regulation was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 8, 1977; the meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting. The provisions of these regulations are identical with the recommendations of the committee, and information concerning the provisions and effective time has been provided to handlers of such fruits. It is necessary to make these regulations effective on September 26, 1977, in order to effectuate the declared policy of the act.

In consideration of the foregoing findings, the Department hereby establishes requirements for the handling of Florida oranges, grapefruit, tangerines, and tangelos (7 CFR 905.565—905.568) as follows:

§ 905.565 Orange Regulation 76.

Order. (a) During the period September 26, 1977, through November 13, 1977, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valenciat type, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area which are of a size smaller than 2⁵⁄₁₆ inches in diameter, except that a tolerance for such oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos: *Provided*, That such tolerance for such oranges shall be based only on those oranges in a lot which are of a size 2¹⁴⁄₁₆ inches in diameter or smaller;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(4) Any Navel oranges, grown in the production area, which are of a size smaller than 2⁵⁄₁₆ inches in diameter, except that a tolerance for Navel oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos;

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1;

(6) Any Temple oranges, grown in the production area, which are of a size smaller than 2⁵⁄₁₆ inches in diameter, except that a tolerance for Temple oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos;

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 grade for murcotts;

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2¹¹⁄₁₆ inches in diameter, except that a tolerance for Murcott Honey oranges smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines;

(9) Any Valencia, Lune Gim Gong, and similar later maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1; and

(10) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2⁵⁄₁₆ inches in diameter, except that a tolerance for such oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos: *Provided*, That such tolerance for such oranges shall be based only on those oranges in a lot which are 2¹⁴⁄₁₆ inches in diameter or smaller.

(b) During the period September 26, 1977, through November 13, 1977, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2⁹⁄₁₆ inches in diameter, except that a tolerance for such oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(4) Any Navel oranges, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for Navel oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos;

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1;

(6) Any Temple oranges, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for Temple oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos;

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 grade for murcotts;

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 5/16 inches in diameter, except that a tolerance for Murcott Honey oranges smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines;

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1; and

(10) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for such oranges smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order; Florida No. 1 grade for murcotts shall have the same meaning as provided in Rule No. 20-35.03 of the Regulations of the Florida Department of Citrus, and all other terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the terms in the revised United States Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140-51.1180) or the revised United States Standards for Florida Tangerines (7 CFR 51.1810-51.1835).

§ 905.566 Grapefruit Regulation 78.

Order. (a) During the period September 26, 1977, through November 13, 1977, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than 3 13/16 inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit;

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) Any seedless grapefruit, grown in the production area, which are of a size smaller than 3 9/16 inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit.

(b) During the period September 26, 1977, through November 13, 1977, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than 3 9/16 inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit;

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) Any seedless grapefruit, grown in the production area, which are of a size smaller than 3 5/16 inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted as specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit.

(c) Terms used in the marketing agreement and order, including Improved No. 2 grade, shall, when used herein, have the same meaning as is given to the terms in the marketing agreement and order; and terms relating to grade, except Improved No. 2 grade, and diameter, as used herein, shall have the same meaning as is given to the terms in the United States Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784).

§ 905.567 Tangerine Regulation 49.

Order. (a) During the period September 26, 1977, through November 13, 1977, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangerines, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines.

(b) During the period September 26, 1977, through November 13, 1977, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1, or

(2) Any tangerines, grown in the production area, which are of a size smaller than 2 5/16 inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the terms in the marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the terms in the revised United States Standards for Grades of Florida Tangerines (7 CFR 51.1810-51.1835).

§ 905.568 Tangelo Regulation 49.

Order. (a) During the period September 26, 1977, through November 13, 1977, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangelos, grown in the production area, which are of a size smaller than 2 5/16 inches in diameter, except that a tolerance for tangelos smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos.

(b) During the period September 26, 1977, through November 13, 1977, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangelos, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for tangelos smaller than such minimum diameter shall be permitted as specified in § 51.1152 of the United States Standards for Grades of Florida Oranges and Tangelos.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the terms in the marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the terms in the revised United States Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140-51.1180).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 16, 1977, to become effective September 26, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27491 Filed 9-20-77;8:45 am]

PART 932—OLIVES GROWN IN CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $675,000, fixes a rate of assessment of $12.00 per ton of olives handled for the functioning of the Olive Administrative Committee for the 1977–78 fiscal year, and approves carrying over unexpended assessment funds from the previous fiscal year as a reserve. The committee is established under a Federal marketing order program regulating olives grown in California. This regulation enables the committee to collect assessments from handlers on all assessable olives handled and to use the resulting funds for its expenses.

DATES: Effective for the period September 1, 1977, through August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: On August 30, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 43640) regarding proposed expenses, rate of assessment, and carryover of unexpended funds, under marketing order No. 932 (7 CFR Part 932) regulating olives grown in California. This notice allowed interested persons to submit written comments pertaining to the proposal until September 14, 1977. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposal set forth in the notice, which was submitted by the Olive Administrative Committee (established under the marketing order), it is found and determined that:

§ 932.212 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1977, through August 31, 1978, will amount to $675,000.

(b) *Rate of Assessment.* The rate of assessment for that period, payable by each first handler in accordance with § 932.39, is fixed at $12.00 per ton of olives.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal year ending August 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 932.40.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the marketing order require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable olives from the beginning of that year; and (2) the current fiscal year began on September 1, 1977, and the rate of assessment herein fixed will automatically apply to all assessable olives beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.)

Dated: September 16, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27394 Filed 9-20-77;8:45 am]

[Grapefruit Reg. 18]

PART 944—FRUITS; IMPORT REGULATIONS

Grapefruit; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prescribes minimum grade and size requirements for imported grapefruit as follows: Imported seeded grapefruit—U.S. No. 1 and $3^{12}/_{16}$ inches in diameter; and imported seedless grapefruit—Improved No. 2 and $3^{9}/_{16}$ inches in diameter. These requirements are the same as those for grapefruit produced in Florida and regulated under Marketing Order No. 905. The regulation is required by Federal law.

EFFECTIVE DATE: September 26, through November 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: This regulation is consistent with Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. This regulation establishes the same grade and size requirements on imported seeded and seedless grapefruit as are effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation beyond that herein specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) this regulation fixes the same requirements on imports of seeded and seedless grapefruit as are applicable under Grapefruit Regulation 78 (§ 905.566); (c) Notice hereof in excess of three days, the minimum that is prescribed by section 8e, is given regarding this import regulation; and (d) such notice is determined, under the circumstances, to be reasonable.

§ 944.114 Grapefruit Regulation 18.

(a) During the period September 26, 1977, through November 13, 1977, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3^{12}/_{16}$ inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than $3^{9}/_{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in § 51.761 of the United States Standards for Grades of Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection services for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the services, applicable to the particular ship-

ment of grapefruit, is required on all imports of grapefruit. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of grapefruit should make arrangements for inspection, through one of the following offices, at least the specified number of days prior to the time when the grapefruit will be imported:

Ports	Office	Advance notice (days)
All Texas points	Leo M. Denbo, 506 South Nebraska Ave., San Juan, Tex. 78508, phone 512-787-4091; or Charles Parrigon, 724 East Overland, El Paso, Tex. 79901, phone 915-543-7723.	1
All New York points	Carmine J. Cavallo, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7668 and 212-991-7669; or Charles D. Renick, 176 Niagara Frontier Food Terminal, room 8, Buffalo, N.Y. 14206, phone 716-824-1585.	1
All Arizona points	Charles R. Everette, 225 Terrace Ave., Nogales, Ariz. 85621, phone 602-287-2902.	1
All Florida points	Bennie C. Tiner, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116; or Cecil B. Brantley, 550 3d St., NW., Winter Haven, Fla. 33880; phone 813-294-2089; or Bobby E. Stafford unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205, phone 904-354-5983.	1
All California points	T. A. Trombatore, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-688-2489.	3
All Louisiana points	Leonard E. Mixon, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, phone 504-589-6741.	1
All other points	Michael A. Castille, Fruit and Vegetable Division, FSQS—USDA, Washington, D.C. 20250, phone 202-447-5870.	3

(c) Inspection certificates shall cover only the quantity of grapefruit that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant.

(e) Each inspection certificate issued for grapefruit to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation any importation of grapefruit which, in the aggregate, does not exceed five standard boxes, equivalent to 1⅗ bushels each, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements of this section are the same as those being made effective for grapefruit grown in Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall preclude any importer from reconditioning, prior to importation, any shipment of grapefruit for the purpose of making it eligible for importation.

(j) Terms used herein relating to grade, except Improved No. 2 grade, and diameter shall have the same meaning as in the United States Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784). Improved No. 2 shall mean the same as in the marketing agreement and Order No. 905, both as amended (7 CFR Part 905). Importation means release from custody of the United States Customs Service.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated, September 16, 1977, to become effective September 26, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-27490 Filed 9-20-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13962; File No. S7-676]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Recordkeeping by Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: The Commission today amended its rules to require outside service bureaus used by broker-dealers for the preparation or maintenance of records to file with the Commission an undertaking that broker-dealer records that they prepare or maintain are subject to examination by the Commission and acknowledging that such records are the property of the broker-dealer. The Commission has found that, in situations where a broker-dealer or its outside service bureau is experiencing financial difficulty, the records of the broker-dealer have not always been available to the broker-dealer or to the Commission. The amendment is intended to assure that such records are available for examination.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1390).

SUPPLEMENTARY INFORMATION: In February 1977,[1] the Commission proposed an amendment to § 240.17a-4 to add a new paragraph (i) which would require the filing with the Commission of a written agreement entered into between a broker-dealer and its outside service bureau, and a written undertaking by such service bureau, specifying that the records prepared or maintained for the broker-dealer are the property of such broker-dealer, that such records are subject to examination by the Commission or its designee, and that copies of such records shall be promptly furnished upon request to the Commission or its designee.

Comments received were carefully considered in the formulation of the final amendment.

Some commentors indicated a concern that the proposed rule could expose broker-dealers and service bureaus to additional costs over which they would have no control. Several of those commentors suggested that the Commission's right of examination of the records at the service bureau be conditioned on the unavailability of the records at the office of the broker-dealer or on prior notice to the broker-dealer. Another commentor suggested that the burden of supplying the records should be placed on the broker-dealer, who could "order" them from the service bureau.

The Commission intends generally to conduct examinations at service bureaus only under circumstances where it has been ascertained that the records of the broker-dealer are not otherwise available. Accordingly, the Commission expects that, in most instances, broker-dealers will be on notice prior to an examination of their records at the service bureau. Since it is not the Commission's policy to give advance notice of examinations to broker-dealers, however, the Commission does not consider it appropriate to "order" records from the service bureau through the broker-dealer.

[1] Securities Exchange Act Release No. 13273 (February 18, 1977) 42 FR 10698 (February 23, 1977).

Several commentors also stated that the service bureau should be required to provide the records to the broker-dealer or the Commission only upon payment of its fees and charges. The Commission notes that the proposed rule is intended to assure the accessibility of broker-dealer records in situations where, for example, a service bureau refuses to surrender the records due to nonpayment of fees. In such situations lack of access to the records of a broker-dealer would hinder the Commission and the broker-dealer's designated examining authority in the performance of their oversight responsibilities and could impede the activities of a SIPC trustee or a receiver appointed for the broker-dealer. The Commission recognizes the right of service bureaus to be paid for their services and expects broker-dealers to honor their obligations. In order to assure the protection of customers, however, the records of a broker-dealer must be available at all times for examination by the Commission or its designees. In light of that regulatory intent, the Commission believes that the suggested stipulation of payment would be inappropriate.

Several commentors suggested changes with regard to the proposed filing requirements. Suggestions made were that the broker-dealer file the undertaking for the service bureau, that the undertaking be included in the agreement as one filing, that the designated examining authority be a co-recipient of the filings, and that no filings be required. In considering those suggestions, the Commission has determined to revise the proposed rule to eliminate the requirement of a separate agreement between the broker-dealer and the service bureau and to incorporate the substance of the agreement in the written undertaking of the service bureau. The undertaking of the service bureau is expected to be made directly in favor of the Commission. Therefore, filing with the Commission of that undertaking by the service bureau is necessary.

A question of interpretation was raised by several commenting service bureaus who stated that they prepare but do not "maintain" broker-dealer records. One commentor opined that service bureaus that only prepare the records should not be required to file an undertaking with the Commission. The Commentors indicated that once the records are prepared, hard copy is furnished to the broker-dealer, the service bureau retaining only the tapes or disks from which the hard copy is produced. Because the records of a broker-dealer may not always be available at his offices, the Commission considers it appropriate that an undertaking be filed by all service bureaus that prepare or maintain broker-dealer records, whether in hard copy, tape, disk, or other media. Such an undertaking will serve to assure that the records of the broker-dealer are available to the Commission for examination under all circumstances.

The Securities Investor Protection Corp. ("SIPC") suggested that the service bureau undertaking provide that a SIPC trustee appointed for the broker-dealer shall be permitted to examine, and shall be furnished with copies of, the records of the broker-dealer. The Commission recognizes that a SIPC trustee must have access to a broker-dealer's records in order to ascertain what is owed to customers. Circumstances may also dictate that other parties, such as a court-appointed receiver or a self-regulatory organization, examine a broker-dealer's records. The Commission considers it appropriate, however, that SIPC trustees and other interested parties be Commission designees rather than named parties in the rule. In that regard, the Commission notes that the examining authority for a broker-dealer and a trustee appointed for a broker-dealer pursuant to the Securities Investor Protection Act of 1970 shall be, with regard to such broker-dealer, designees of the Commission for purposes of § 240.17a-4(i).

Statutory Basis, Competitive Considerations and Effective Date

Pursuant to the Securities and Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof, the Commission amends § 240.17a-4 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective January 1, 1978. The Commission finds that no burden is imposed on competition by the adoption of this amendment.

Text of the Amendment

Section 240.17a-4 is amended by adding new paragraph (i) as follows:

§ 240.17a-4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(i) If the records required to be maintained and preserved pursuant to the provisions of §§ 240.17a-3 and 240.17a-4 are prepared or maintained by an outside service bureau, depository, bank which does not operate pursuant to § 240.17a-3(b)(2), or other recordkeeping service on behalf of the member, broker or dealer required to maintain and preserve such records, such outside entity shall file with the Commission a written undertaking in form acceptable to the Commission, signed by a duly authorized person, to the effect that such records are the property of the member, broker or dealer required to maintain and preserve such records and will be surrendered promptly on request of the member, broker or dealer and including the following provision:

With respect to any books and records maintained or preserved on behalf of [BD], the undersigned hereby undertakes to permit examination of such books and records at any time or from time to time during business hours by representatives or designees of the Securities and Exchange Commission, and to promptly furnish to said Commission or its designee true, correct, complete and current hard copy of any or all or any part of such books and records.

Agreement with an outside entity shall not relieve such member, broker or dealer from the responsibility to prepare and maintain records as specified in this section or in § 240.17a-3.

(Sec. 14, Pub. L. 94-29, 89 Stat. 137 (15 U.S.C. 78q); Sec. 18, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w))

By the Commission.

George A. Fitzsimmons,
Secretary.

September 15, 1977.

[FR Doc.77-27478 Filed 9-20-77;8:45 am]

[Release No. 34-13943; File No. S7-711]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Annual Assessment Form for SECO Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of form.

SUMMARY: The Securities Exchange Act of 1934 authorizes the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers). This form sets forth the annual schedule under which SECO broker-dealers are to be assessed for fiscal year 1977.

EFFECTIVE DATE: October 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel Bateman, Division of Market Regulation, Room 353, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549 (202-755-1345).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has adopted Form SECO-4-77 which sets forth the annual assessments payable to the Commission for fiscal year 1977 by registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. Form SECO-4-77 was proposed and published for public comment on July 21, 1977 (Securities Exchange Act Release No. 13790, July 21, 1977, 42 FR 37982, July 26, 1977).

In adopting Form SECO-4-77, for this year, the Commission has determined to modify the annual SECO assessment schedule by reducing the gross income assessment from .375% to .2% for municipal securities transactions and .35% for other OTC securities transactions. The annual base member assessment and the annual personnel assessment ($250 and $5, respectively) will remain unchanged. The distinction between the levies on municipal and other OTC securities income has been made because the Commission is relieved of certain rulemaking functions as to SECO firms and associated persons by the Munici-

pal Securities Rulemaking Board ("MSRB"). The MSRB has established fixed and variable fees to defray the costs of its regulatory activities in the municipal securities area which must be paid to that Board by firms engaging in that type of business.

NOTICE OF DUE DATE FOR FILING FORM SECO-4-77

SECO broker-dealers filing Form SECO-4-77 and annual assessments should note that although the due date printed on the Form is September 1, 1977, such broker-dealers are not required to file the Form or remit the assessment payable until October 21, 1977.

STATUTORY BASIS FOR COMPETITIVE CONSIDERATIONS

The modifications of 1977 assessments for SECO broker-dealers are adopted pursuant to the Securities Exchange Act of 1934 and particularly sections 15(b)(7), 15(b)(8), 17(a) and 23(a) thereof. The Commission finds that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly to implement the Commission's continuing mandate under section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to nonmember broker-dealers.

Accordingly, Part 249 of Title 17 of the Code of Federal Regulations is amended by adding § 249.504k as follows:

§ 249.504k Form SECO-4-77, assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before September 1, 1977, pursuant to § 240.15b-9-2 of this chapter, accompanied by the annual assessment fee required thereunder, for the fiscal year ended September 30, 1977, by every registered broker and dealer not a member of a registered national securities association.

Copies of the form have been filed with the Office of the Federal Register, and additional copies are available on request from the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 9, 1977.

[FR Doc.77-27480 Filed 9-20-77;8:45 am]

[Release No. IC-9932]

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Division of Investment Management Interpretative Position Relating to Rights Offerings by Closed-End Investment Companies Below Net Asset Value

AGENCY: Securities and Exchange Commission.

ACTION: Statutory interpretation.

SUMMARY: The Commission has issued an interpretative position taken by its Division of Investment Management ("Division") to provide guidance for directors of closed-end investment companies contemplating rights offerings below net asset value. Several such companies have had discussions with the staff as to the applicability and meaning of the Investment Company Act of 1940 ("Act") as it relates to such offerings. For the benefit of these companies, and others similarly situated, the Division sets forth certain considerations which it deems important for directors in this connection, and also sets forth an interpretation of a statutory exception in the Act allowing offerings at below net asset value when made to existing shareholders.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Michael S. Lichtenthal, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7470.

SUPPLEMENTARY INFORMATION: Subject to narrow exceptions, closed-end investment companies are prohibited by the Investment Company Act of 1940 from increasing their asset base by selling shares at a price below net asset value.[1] Frequently, many such companies' shares trade at prices below net asset value.

Since prices at which public offerings of such shares could be made must as a practical matter be comparable to the value set in the securities markets, such companies may be precluded from increasing their asset base through an equity offering except through such statutorily provided exceptions as a vote of shareholders or an order of the Commission.

One of the exceptions to this restriction, which has been the subject of attention in recent months, permits sales below net asset value "in connection with an offering to the holders of one or more classes of its capital stock."[2] Several companies have had discussions with the Division with respect to the application of this exception as it relates to "transferable rights" offerings[3] wherein shares would be first offered to existing shareholders, but any shares not purchased by existing shareholders would be sold by the underwriters to the general public.

Since the exceptions in the 1940 Act for offerings below net asset value involve dilution of shareholders' assets, earnings, and relative voting power, they are designed for exceptional, and not routine, circumstances. Therefore, the Division believes that transferable rights offerings are not permitted under the exception mentioned above unless special circumstances can be shown, and it is expected that a very substantial majority of the shares will be purchased by existing shareholders. Furthermore, these offerings generally present difficult questions as to the fiduciary duties of directors. To assist persons who must deal with these issues, the Division, as a part of its continuing program of reviewing the regulation of investment companies under the Act, is setting forth herein certain of its views relating to offerings to shareholders at below net asset value.

SECTION 23(b)

Section 23(b) of the Act [15 U.S.C. 80a-23(b)] prohibits the sale of shares by a closed-end investment company at less than net asset value with certain exceptions. The legislative history of the Act indicates that the prohibition of section 23(b) is intended to protect existing shareholders of closed-end companies from having their interests diluted through sales of shares to the public below net asset value. The exceptions to that prohibition were added by Congress in recognition of the fact that certain rare circumstances might warrant the sales of shares below net asset value where the sale would be in the interest of the company and not to the

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[1] A "closed-end company" is a management company which neither offers nor has outstanding any redeemable securities. *See* Section 5 of the Investment Company Act of 1940 [15 U.S.C. 80a-5].

[2] *See* Section 23(b)(1) of the Act [15 U.S.C. 80a-23(b)(1)].

[3] A rights offering entities existing shareholders of a company to purchase additional shares of that company during a specified period of time at a specified price. Typically, in such an offering, one right would be issued for each share of stock held by shareholders, and a given number of rights would be required to subscribe for one share of stock. An offering of this nature might also contain an oversubscription privilege whereby subscription shares not purchased pursuant to a basic subscription privilege would be available for purchase subject to allotment among holders of record exercising the oversubscription privilege. Furthermore, a company could authorize additional shares for issuance which could be used to fill oversubscriptions after the basic subscription shares are utilized.

A transferable rights offering would be structured so that shares not purchased pursuant to the exercise of rights by existing shareholders could be sold to the general public. In such offerings rights to subscribe would be evidenced by transferable warrants, with each warrant evidencing the total number of rights to which a holder would be entitled. Such rights could be purchased or sold through usual investment channels. In many cases such offerings have been underwritten on a "fixed commitment" or "standby" basis. Under such an arrangement underwriters would be committed to purchase all subscription shares not subscribed for pursuant to the exercise of rights. During and after the subscription period the underwriters would offer shares of capital stock acquired by them, including shares acquired through the purchase and exercise of rights, to the public at prices determined by the representatives of the underwriters. The company would pay the underwriters compensation for their commitment to purchase unsubscribed shares plus an additional sum for each unsubscribed share acquired by the underwriters through the exercise of rights purchased by them.